IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: VINCENT, et al.

Serial No.:	09/226,939
Filing Date:	January 8, 1999
Confirmation No.	8916
Group Art Unit:	2162
Examiner:	Anh Ly
Title:	**SYSTEM AND METHOD FOR RECURSIVE PATH ANALYSIS OF DBMS PROCEDURES**

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The following Pre-Appeal Brief Request for Review ("Request") is being filed in accordance with the provisions set forth in the Official Gazette Notice of July 12, 2005 ("OG Notice"). Pursuant to the OG Notice, this Request is being filed concurrently with a Notice of Appeal. Applicants respectfully request reconsideration of the Application in light of the remarks set forth below.

REMARKS

Applicants contend that the rejections of Claims 40-51, 60-63, and 65 on prior art grounds contain clear legal and factual deficiencies, as described below. In a Final Office Action of December 19, 2005, Claims 40, 44, 46-51, 60, and 65 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,325,531 issued to McKeeman et al. ("*McKeeman*") in view of U.S. Patent No. 5,546,570 issued to McPherson et al. ("*McPherson*"). Claim 45 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *McKeeman* in view of *McPherson*, and further in view of U.S. Patent No. 5,926,819 issued to Doo et al. ("*Doo*"). Applicants request a finding that these rejections are improper and allowance of all pending Claims.

With respect to Claim 40, the Final Office Action contends that *McPherson* discloses "recursively querying a database for one or more dependencies of procedural code objects stored in the database." However, as discussed in Applicants' Response dated February 17, 2006, at pages 14-15, *McPherson* contains no such disclosure. The Advisory Action mailed March 9, 2006, responded to Applicants' remarks, stating that "McPherson, Jr. et al. . . . teaches the execution og [sic] SQL queries involving resursion [sic] and table queries in a relational database management system, and a directed acyclic graph." Advisory Action, p. 2 (citations omitted). This argument, however, is clearly flawed. *McPherson* explicitly states that the directed acyclic graph ("DAG") "represents a query execution plan of a <u>non-recursive</u> SQL query." Col. 3, ll. 62-64 (emphasis added). As such, the DAG cannot be used to "recursively query[] a database" as recited in Claim 40. Moreover, even if the DAG or any other method disclosed in *McPherson* could be used to recursively query a database, *McPherson* fails to teach, suggest, or disclose "recursively querying a database for <u>one or more dependencies of procedural code objects</u> stored in the database." For at least these reasons, the rejection of Claim 40 is improper.

The Final Office Action also contends that *McKeeman* discloses "generating a dependency information tracking array based on the indication of one or more dependencies of procedural code objects [stored in the database]" in the form of a fine grain dependency graph. As also discussed in Applicants' Response dated February 17, 2006, at page 15, *McKeeman* contains no such disclosure. Instead, the fine grain dependency graphs disclosed in *McKeeman* are not "based on the indication of one or more dependencies of procedural code objects [stored in the database]." Moreover, *McKeeman* includes no mention of a database or how these fine grain dependency graphs are generated.
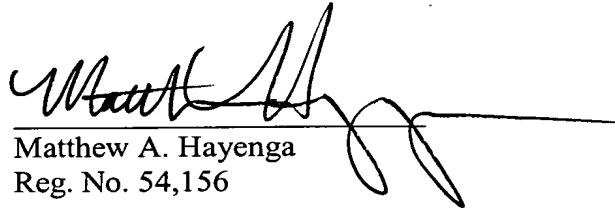
The Advisory Action responded to these remarks by stating that "the features upon which applicant relies . . . are not recited in the rejected claims." However, this argument is clearly flawed. Claim 40 explicitly recites "generating a dependency information tracking array <u>based on the indication of one or more dependencies of procedural code objects</u>" and these procedural code objects are "<u>stored in the database</u>." As such, the Advisory Action clearly mischaracterizes the limitations relied upon by Applicants. Contrary to the Advisory Action's characterization, these limitations are clearly recited in Claim 40.

The Advisory Action also mischaracterizes the disclosure found in *McKeeman*. The Advisory Action states that "McKeeman teaches source codes are stored in tables or <u>database</u> and code object is maintained in memry [sic] for reducing delays." Advisory Action, p. 2 (emphasis added) (citations omitted). This statement, however, is incorrect. *McKeeman* <u>contains no references to a database whatsoever</u>. For at least this reason, *McKeeman* cannot possibly teach that source codes are stored in a database. For these additional reasons, the rejection of Claim 40 is improper. As such, Applicants request that the rejection be withdrawn. Additionally, Applicants submit that Claims 41-50, 60-63, and 65 contain limitations similar to those recited in Claim 40. Therefore, Applicants request that the rejections of Claims 41-50, 60-63, and 65 be withdrawn as well.

CONCLUSION

As the rejection of Claims 40-51, 60-63, and 65 contains clear deficiencies, Applicants respectfully request full allowance of Claims 40-51, 60-63, and 65. To the extent necessary, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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Date: March 16, 2006

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